

APPEAL NO. 032156  
FILED OCTOBER 7, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 24, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplement income benefits (SIBs) for the first quarter. The appellant (carrier) appealed, arguing that the hearing officer's determination is against the great weight and preponderance of the evidence, and asserting that the hearing officer was biased. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the direct result requirement of Section 408.142(a)(2) and Rule 130.102(b)(1) and whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by complying with Rules 130.102(d)(2) and 130.102(d)(5). The qualifying period for the first quarter of SIBs was from December 20, 2002, through March 20, 2003. The claimant based his request for entitlement to SIBs for the first quarter on the assertion that he made a good faith effort to look for employment commensurate with his ability to work every week of the qualifying period.

Rule 130.102(c) provides that an injured employee has earned less than 80% of the employee's average weekly wage as a direct result of the impairment from the compensable injury if the impairment from the compensable injury is a cause of the reduced earnings. We have said that "direct result" may be established by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. Whether the claimant satisfied the direct result requirement for SIBs entitlement was a factual question for the hearing officer to resolve. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Nothing in our review of the record indicates that the hearing officer's direct result findings are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Rule 130.102(d)(5) provides, in pertinent part, that an injured employee has made the required good faith effort if the employee "has provided sufficient documentation as described in subsection (e) of this section to show that he or she has

made a good faith effort to obtain employment." Rule 130.102(e) provides that an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts. The hearing officer was persuaded by the evidence that the claimant looked for employment commensurate with his ability to work every week of the qualifying period in dispute. Nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain, supra. Accordingly, no sound basis exists for us to disturb that determination on appeal.

The carrier contends that the hearing officer erred in determining that the claimant met the requirements of Rule 130.102(d)(2) by cooperating with the Texas Rehabilitation Commission. We note that compliance with only one subsection of Rule 130.102(d) will establish good faith. See Texas Workers' Compensation Commission Appeal No. 001099, decided June 21, 2000. Given that we have affirmed the hearing officer's determination that the claimant has made a good faith effort to obtain employment commensurate with his ability to work as required by Rule 130.102(d)(5), we will not address the carrier's argument regarding Rule 130.102(d)(2).

Finally, the carrier contends that the hearing officer exhibited bias which affected his role as an objective fact finder in rendering his decision. The record does not reveal hearing officer bias nor does it reveal that the hearing officer's decision was based upon anything other than his impartial credibility determinations.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge